

ORIGINAL

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID SCOTT YARNALL,

v.

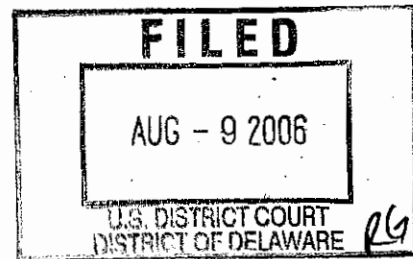
COPORAL ANTHONY MENDEZ ET AL.

No. 05-527-SLR

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NOTICE OF MOTION

TO: ATTORNEY GENERAL
DEPARTMENT OF JUSTICE
820 NORTH FRENCH ST.
WILMINGTON, DE 19801



PLEASE TAKE NOTICE that the attached MOTION FOR AMENDMENT
will be presented at the convenience
of the Honorable Court.

DAVID SCOTT YARNALL
ASBY
SUSSEX CORRECTIONAL INST.
P.O. 500
GEORGETOWN DE 19947

DATED: 7/31/06

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

DAVID SCOTT YARNALL
Plaintiff/s

V.

CORPORAL ANTHONY MENDEZ ET AL.
Defendant/s

Civil Action No.: D5-527-SLR


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MOTION FOR ADMENDMENT

COMES NOW, the Plaintiff, DAVID SCOTT YARNALL, pro se who
pursuant to DISTRICT COURT Rule 15.1, moves this
Honorable Court to grant this motion. In support, the following facts are asserted;

SEE ATTACHED DOCUMENTS

8/2/06


DAVID SCOTT YARNALL
PLAINTIFF

I, DAVID SCOTT YARNALL WAS VIOLATED BY THE USE OF EXCESSIVE FORCE BY DE STATE TROOPER CPL. ANTHONY MENDEZ 3862 2 OF TROOP 7 SUSSEX COUNTY, DE ON THE NIGHT OF WEDNESDAY, MAY 11TH, 2005, APPROX. 2130 HOURS.

I, DAVID SCOTT YARNALL WAS VIOLATED BY CPL. ANTHONY MENDEZ'S FAILURE TO PREVENT THE USE OF EXCESSIVE FORCE BY MILLSBORO POLICE OFFICER PLUM LOWE 10732 001 IN SUSSEX COUNTY, DE ON THE NIGHT OF WEDNESDAY, MAY 11TH, 2005 AT APPROX. 2131 HOURS.

I, DSY WAS MAKING MY WAY ON FOOT ACROSS THE GRASS LOT FROM LONGNECK RD, MILLSBORO, TOWARDS THE APARTMENTS IN FRONT OF GROTTO'S PIZZA RESTAURANT, WHERE I WAS RESIDING AT THAT TIME. CPL MENDEZ STOPPED HIS POLICE CRUISER BEHIND ME, IDENTIFIED HIMSELF AND ORDERED ME TO THE GROUND. CPL MENDEZ 38622 HANDCUFFED MY HANDS BEHIND MY BACK AND TOOK MY WALLET OUT OF MY BACK RIGHT POCKET. MENDEZ LEFT ME ON MY KNEES WITHOUT A SEARCH OR WITHOUT PLACING ME IN O THE VEHICLE AND WALKED AROUND THE FRONT OF THE VEHICLE TO THE DRIVER'S DOOR.

THREE WITNESSES HAD TOLD MENDEZ WHAT I HAD DONE PRIOR TO ARREST. I, DSY STAND UP AND WALK TOWARDS LONGNECK RD. MENDEZ TRIES TO TAKE ME DOWN TO THE GROUND. I LEAD MENDEZ BACK TO HIS CAR AND MENDEZ WAS ANGRY. I, DAVID SCOTT YARNALL, DID NOT ASSUALT HIM.

CPL ANTHONY MENDEZ 3862 2 STRIKES ME TWICE ON THE HEAD WHILE I'M HANDCUFFED, WITH MY BACK FACING CPL. MENDEZ 3862 2, WITH HIS DIVISION ISSUED MAGLIGHT FLASHLIGHT. THE ASSUALT CAN BE SEEN IN VIDEO 7SP-6345/TAPE 7-218. I, DSY, HAVE IN MY POSSESSION SEVERAL COPIES OF VIDEO 7SP-6345/TAPE 7-218. OTHER COPIES CAN BE OBTAINED FROM SPECIAL AGENT 302-734-3517 STEFFANS, FBI, DOVER / DELEWARE STATE POLICE INTERNAL AFFAIRS DIVISION, DOVER-LIEUTENT MARK DANIELS / DE. STATE POLICE TROOP 7-CAPT NOLT / PAULA RYAN, ESQ, DEPUTY ATTORNEY GENERAL, GEORGETOWN / ERIC G. MOONEY P.A. GEORGETOWN 302-856-3070

I, DSY, WAS BLEEDING HEAVILY FROM THE RIGHT SIDE OF MY HEAD. I HAD NORMAL CEPHALIC, SCALP LACERATIONS ON THE RIGHT PARIETAL (2 INCHES FROM TEMPLE) AND ABOVE MY RIGHT. 11 STAPLES WERE USED TO CLOSE WOUNDS. PROCEDURE OF STAPLING PERFORMED BY C. PETERSON PA-C. CAT SCAN PICTURES TAKEN ALSO. I WAS TAKEN TO BEEBE MEDICAL CENTER IN LEWES, DE.

CPL. MENDEZ IS BEHIND ME WITH A DOUBLE ARM BAR PRESSING MY TORSO AND HEAD DOWN ONTO THE HOOD. WE ARE ON THE RIGHT SIDE OF HOOD AREA. MENDEZ GOT HELP FROM TWO CIVILIANS. CIVILIAN 2 CHOKES UP ON MENDEZ'S FLASHLIGHT AFTER HE PICKS IT UP OFF THE GROUND. THE SECOND AND LAST BLOW TO MY HEAD CAUSED THE FLASHLIGHT TO COME OUT OF MENDEZ'S HAND AND ZING TO THE GROUND. MENDEZ ORDERS PC2 TO BACK OFF. THEN PC2 IS SEEN IN VIDEO GOING INTO MY POCKET AND TAKING SOMETHING OUT AND PLACING IT ON THE HOOD. CIVILIAN 3 HAS PICKED UP MY SUNGLASSES AND PUT THOSE ON THE HOOD ALSO. UNKNOWN POLICE OFFICERS ARE ORDERING CIVILIANS TO HELP MENDEZ WHO RESPONDED TO POLICE CALL. I ASK OFFICERS TO PUT SUNGLASSES ON MY HEAD. I DON'T REMEMBER SEEING UTILITY BELTS, BLUE PANTS AND A TAZER GUN CABLE ALL READY DEPLOYED AT THE BOTTOM OF THE WINDSHIELD OF THE CAR I WAS LAYING ON.

WHILE LAYING ON THE HOOD, NOT RESISTING AS POLICE REPORT STATES THAT I WAS I AM ATTACKED BY PTLM LOWE 107032 001 OF MILLSBOLD POLICE DEPT WITH A TAZER TO THE LEFT RIB CAGE. AT THE SAME TIME I'M BEING TAZERED AND HARASSED BY PTLM LOWE, PC3 RETRIEVES FLASHLIGHT FROM PC2 AND GIVES IT TO UNKNOWN POLICE OFFICERS. PC3 WAS INTENTIONALLY LEFT OUT OF POLICE REPORT. PC2'S HELP IS STATED IN POLICE REPORT.

I AM JOLTED TO THE GROUND IN FRONT OF CRUISER WITH MENDEZ LANDING ON TOP OF ME. I AM LAYING ON MY BACK WITH MY HANDCUFFED HANDS BEHIND ME. MENDEZ GETS UP AND PTLM LOWE IS YELLING FOR ME TO GET ON MY STOMACH. I SIT UP AND PTLM LOWE TAZERS ME AGAIN AFTER BEING TOLD BY MENDEZ "DON'T DO IT, DON'T DO IT." THEN PTLM LOWE HITS ME IN THE BACK OF THE NECK WITH HIS FOREARM. THAT BLOW KNOCKS ME ONTO MY KNEES. HE THREATENS ME WITH THE TAZER GUN AGAIN AND I TAKE OFF RUNNING BECAUSE I WAS FEARING FOR MY LIFE. I RAN 14 TO 15 STRIDES OUT OF VIEW OF CAMERA TOWARDS A SPRUCE TREE. I WAS SHOT IN THE BACK, BY PTLM LOWE, WITH A TAZER GUN. I MADE A LEFT TURN AT THE TREE BECAUSE THERE WAS NO WHERE TO GO AND RUN BACK INTO VIEW OF THE CAMERA ALL THE WAY TO THE FRONT PARKING LOT WHERE I WAS TACKLED. PTLM LOWE CAN BE SEEN IN VIDEO PRESSING HIS FOOT DOWN ON THE

SIDE OF MY AD ON THE LACERATIONS SUSTAINED FROM MENDEZ. CPL MEN-
DEZ ASKS POLICE "IF ANYBODY FOUND HIS FLASHLIGHT, THE ONE I HIT
HIM WITH," AND PTLM LOWE SAYS "ITS PROBABLY IN THE MAN'S HEAD."
MENDEZ EXHALES "SHOO" AND TELLS EVERYBODY THE TAPE IS STILL ON.
IT APPEARS PC3 AND CPL. MENDEZ'S DIVISION ISSUED MAGLITE FLASH-
LIGHT IS GONE FROM THE SCENE.

VIDEO 7SP-6345 / TAPE 7-218

YARNALL

Ex. A

OPEN GRASSY LOT NEXT TO GROTTO'S PIZZA RESTAURANT ON LONG NECK Rd.



Karl Haller
PUBLIC DEFENDER OFFICE
14 THE CIRCLE, 2ND FLOOR
GEORGETOWN, DE 19947

PICTURE OF ⑦
LOCATION

CERTIFICATE OF SERVICE

I, DAVID SCOTT VARNALL, hereby certify that I have served a true and correct copy of the attached motion upon the following party, on the 31 day of July, '06.


**** Circle the Department of Justice you are serving ****

Deputy Attorney General Department of Justice 820 North French Street Wilmington, DE 19801

Deputy Attorney General
Department of Justice
102 West Water Street
Dover, DE 19904

Deputy Attorney General
Department of Justice
114 East Market Street
Georgetown, DE 19947

7/31/06
Date Signed


Signature of Movant (Notarization not required)

1556 U.S. POSTAGE P822
7985 \$00.87⁰ AUG
5122 PERM ZIP CODE

OFFICE OF THE CLERK
UNITED STATES DISTRICT COURT
844 N. KINGS ST. LOCKBOX 18
WILMINGTON DE
19801-3570

2011
IM: DAVID S. YARNALL BLDG. 412/121
SUSSEX CORRECTIONAL INSTITUTION
P.O. BOX 500
GEORGETOWN, DELAWARE 19947

U.S. MAIL
KING